

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

RONALD HOWES,

Plaintiff,

v.

No.

NEW MEXICO DEPARTMENT OF HEALTH,
THOMAS MASSARO and RICHARD GROGAN,
in their official and individual capacities,

Defendants.

NOTICE OF REMOVAL

TO THE CLERK OF THE COURT:

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §1441, Defendants, New Mexico Department of Health, Thomas Massaro and Richard Grogan (“Defendants”), by and through their counsel of record, Miller Stratvert P.A. (Laura R. Ackermann and Laureana Larkin), hereby remove to this Court from the First Judicial District Court for the County of Santa Fe in the State of New Mexico the state court action described below. Removal is proper pursuant to 28 U.S.C. § 1441 because this Court has original subject matter jurisdiction under 28 U.S.C. §1331 on the basis of the existence of a federal question and also under § 1443, as the case is one alleging violation of civil rights. The facts and bases for removal are as follows:

1. On or about February 17, 2021, Plaintiff filed a Complaint for Violations of 42 U.S.C. §1983, Breach of Implied Contract, and Wrongful Termination/Breach of Implied Covenant of Good Faith and Fair Dealing in the First Judicial District Court for the County of Santa Fe in the State of New Mexico, No. D-101-CV-2021-00335 (the “State Court Action”) against Defendants.

2. On or about February 24, 2021, Plaintiff filed an Amended Complaint for Violations of 42 U.S.C. §1983, Breach of Implied Contract, and Wrongful Termination/Breach of Implied Covenant of Good Faith and Fair Dealing (the “Amended State Court Action”) against Defendants. A true and correct copy of the Amended Complaint and a copy of the Summonses served on Defendants in the state court action are provided herewith. The New Mexico Department of Health was served on February 25, 2021 and Defendant Thomas Massaro was served on February 25, 2021 and The Office of the Attorney General was served on March 2, 2021. These pleadings are attached as **Exhibit A** hereto. No other pleadings have been served on Defendants to date.

3. The removal statute, 28 U.S.C. §1441(a), permits removal by a defendant of “any civil action brought in a state court of which the district courts of the United States have original jurisdiction.” 28 U.S.C. § 1443 alternatively allows for removal of cases alleging violation of civil rights.

4. This Court has original jurisdiction over all civil actions when the matter in controversy raises a federal question. 28 U.S.C. § 1331. In this case Plaintiff references a cause of action arising under 42 U.S.C. § 1983 alleging violation of civil rights.

5. This Notice of Removal is timely because it was filed within 30 days after the service of the Amended Complaint, on March 24, 2021. Service occurred on or about February 25, 2021 for Defendants New Mexico Department of Health and Thomas Massaro.

6. Notice is being provided to Plaintiff of the filing of this Notice as required by 28 U.S.C. § 1446(d).

7. A copy of this Notice will be filed with the Clerk for the District Court for Santa Fe County in the Amended State Court Action as required under 28 U.S.C. § 1446(d).

Respectfully submitted,

MILLER STRATVERT P.A.

By /s/ Laureana A. Larkin

Laura R. Ackermann

Laureana A. Larkin

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I hereby certify that on the 24th day of March, 2021
I filed the foregoing electronically through the CM/ECF
system, which caused the following parties or counsel
to be served by electronic means, as more fully reflected
on the Notice of Electronic Filing:

ATTORNEYS FOR PLAINTIFF:

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By: /s/ Laureana A. Larkin

Laureana A. Larkin